



Legislative Bulletin.....November 12, 2002

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H.R. 3389—National Sea Grant College Program Act Amendments (*Concur in Senate Amendment*) (Gilchrest)

Order of Business: H.R. 3389 passed the House on June 19, 2002, by a vote of 407-2. The Senate then passed the bill with an amendment by unanimous consent on October 11, 2002. The bill now returns to the House floor on Tuesday, November 12th, under a motion to suspend the rules and pass the bill.

Summary (Senate changes struck out in red): H.R. 3389 would reauthorize the National Sea Grant College Program Act, which authorizes grants for academic marine research within the National Oceanic and Atmospheric Administration (NOAA). H.R. 3389 would also direct increased coordination between the Sea Grant program and other research programs at NOAA and increase the term of service for members of the Sea Grant Review Panel from three to four years.

The authorization level for the Sea Grant program would increase annually as follows:

- FY 2003 - \$60 million
- FY 2004 - \$75 million
- FY 2005 - \$77.5 million
- FY 2006 - \$80 million
- FY 2007 - \$82.5 million
- FY 2008 - \$85 million

In FY 02, the Sea Grant program was appropriated \$62.4 million.

Other provisions include the following:

- Require the Sea Grant program to report annually to Congress on the progress of academic institutions seeking Sea Grant designation, with emphasis on institutions in the South and Western Pacific

- ~~Reauthorize the Coastal Oceans program at NOAA at \$35 million for each of five years (appropriated \$21.5 million in FY 2002)~~
- Authorize “priority activities” at \$18 million for each of fiscal years 2003-2008
- Require a report to Congress describing efforts by the Secretary to ensure equal access for minority and economically disadvantaged students to the program carried out pursuant to the bill and the results of such efforts.

Administration Position: The Bush Administration proposed transferring the Sea Grant program from NOAA to the National Science Foundation in its FY 2003 budget and requested appropriations of \$57 million. However, no official Administration position on H.R. 3389 is available.

Cost to Taxpayers: H.R. 3389, as amended, would authorize appropriations of \$78 million in FY2003, \$465 million over the FY2003-FY2007 period, and \$568 million over the FY2003-FY2008 period.

Does the Bill Create New Federal Programs or Rules?: The bill would reauthorize and make changes to the National Sea Grant College Program, as described above.

Constitutional Authority: The Resources and Science Committees, in House Report 107-369 parts 1 and 2, cite Article I, Section 8 but fail to cite a specific clause.

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H.R. 3394—Cyber Security Research and Development Act (*Concur in Senate Amendment*) (Boehlert)

Order of Business: H.R. 3394 passed the House on February 7, 2002, by a vote of 400-12. The Senate then passed the bill with an amendment on October 16, 2002, by unanimous consent. The bill is now scheduled to return to the House floor on Tuesday, November 12th, under a motion to suspend the rules and pass the bill.

Summary (Major Senate change in red bold): H.R. 3394 would authorize \$903 million over five years for the National Science Foundation (NSF) and the National Institute of Standards and Technology (NIST) to create new and to expand existing grant programs for research on computer security. **H.R. 3394 outlines 12 ways in which these agencies would be directed to increase research into computer security.**

The NSF would be authorized to, subject to appropriation:

- Award grants totaling \$233 million over five years to institutions of higher education for basic research on enhancing computer and network security.
- Award grants totaling \$144 million over five years to institutions of higher education to establish Centers for Computer and Network Security Research. These new centers

would conduct research and train computer and network security researchers and professionals.

- Award grants totaling \$95 million over five years to institutions of higher education to establish and improve degree programs in computer security and to increase the number of students pursuing degrees in computer security fields.
- Expand the activities of the Advanced Technological Education Program (established in 1992) to include improving education in fields related to computer and network security, at a cost of \$6 million over five years.
- Establish a new program to award grants totaling \$90 million over five years to institutions of higher education to “establish traineeship programs for graduate students who pursue computer and security research leading to a doctorate degree.”
- List “computer and network security” as a field of specialization under the NSF Graduate Research Fellowships program established in 1950.
- **Establish a new program to award grants totaling \$25 million over five years to “establish traineeship programs to enable graduate students to pursue academic careers in cyber security upon completion of doctoral degrees.”**
- Take the “lead role” in fostering and supporting research on improving the security of networked information systems.

NIST would be authorized to, subject to appropriations:

- Establish a new program to assist institutions of higher education that partner with for-profit entities in long-term, high-risk research programs. It would also be authorized to create a new program to award post-doctoral research fellowships and another new program to award senior research fellowships to those engaged in cyber security research. The bill authorizes \$275 million over five years for these three programs.
- Grant the Computer System Security and Privacy Advisory Board \$2.15 million over two years to identify emerging issues in computer security and to disseminate its discoveries to the public.
- Conduct up to \$32 million (over five years) of research on computer security under the National Institution of Standards and Technology Act.
- Conduct, in conjunction with the National Research Council of the National Academy of Sciences, a study of the nation’s vulnerable network infrastructure and make appropriate recommendations to Congress. \$700,000 would be authorized for this research.

Possible RSC Concerns:

Some Members may be concerned that the federal government is further unnecessarily intervening in an area already being addressed by the private sector. CRS for example reports that, “the market for computer and Internet security (divided into hardware, software, and service providers) is large and growing. The CSI/FBI survey cites a 1999 International Data Corporation (IDC) estimate that the security software industry will grow from \$2 billion

to \$7.4 billion by 2003 and the security hardware market will grow from \$500 million to \$1.9 billion by 2003. According to Redherring.com (*Picking the Locks on the Internet Security Market*, [http://www.Redherring.com], July 24, 2000), the security services market is expected to grow from \$7 billion to \$14 billion by 2003.” As the demand in the private sector grows, the private market will provide greater incentives for individuals to pursue careers in computer security. A simple internet search indicates numerous private companies, organizations and universities addressing computer security issues.

Some Members may also be concerned about duplicative federal programs related to cyber-security. For example, the federal government already funds the Software Engineering Institute, a research and development center operated at Carnegie Mellon University that includes the CERT Coordination Center, a center of Internet security expertise. Furthermore on November 27 of last year the House passed H.R. 1259, the Computer Security Enhancement Act of 2001, which included the following provision:

Fellowships in computer security to college students would be authorized at **\$5 million** for each of fiscal years 2002 and 2003.

Some Members may be concerned that the high level of authorizations in the bill will result in federal funds being focused on supporting private / public research rather than implementing computer security programs for federal systems. For example, H.R. 1259, which passed the House last November only authorized a total of \$15 million for FY 2002 and 2003 for National Institute of Standards and Technology to assist federal agencies in protecting their computer networks, promote federal compliance with computer information security and privacy guidelines, and support federal responses to unauthorized access into federal computer systems.

Administration Position: The Administration supports the passage of H.R. 3394: <http://www.whitehouse.gov/omb/legislative/sap/107-2/HR3394-r.html>

Cost to Taxpayers: H.R. 3394 would authorize \$903 million over five years for the National Science Foundation (NSF) and the National Institute of Standards and Technology (NIST) to create new and to expand existing grant programs for research on computer security.

Does the Bill Create New Federal Programs or Rules?: Yes, as detailed above.

Constitutional Authority: The Science Committee in House Report 107-355 Part 1 finds Constitutional Authority under Article I, Section 8 of the Constitution (Powers of Congress), but fails to cite a specific clause.

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**H.R. 1070—Great Lakes Legacy Act (*Concur in Senate Amendment*)
(Ehlers)**

Order of Business: H.R. 1070 passed the House by voice vote on September 4, 2002. The Senate passed the bill with an amendment on October 17, 2002, by unanimous consent. The bill is now scheduled to return to the House floor on Tuesday, November 12th, under a motion to suspend the rules and pass the bill.

Summary (major Senate changes in red bold): H.R. 1070 would authorize \$50 million for ~~each of fiscal years 2003-2007~~ **each of fiscal years 2004-2008** for the Great Lakes National Program Office at the Environmental Protection Agency (EPA) to carry out projects related to contaminated sediment in the Great Lakes. Such projects would:

- Monitor or evaluate contaminated sediment;
- Implement a plan to remediate contaminated sediment;
- Prevent further contamination of sediment;
- Have completed an evaluation of remedial alternatives, including a review of the long and short-term effects the alternatives could have on human health and the environment;
- Not be carried out if the area is likely to be further contaminated after the project is completed;
- Have a cost to the federal government of no more than 65 percent of the total project cost, with operation and maintenance costs paid solely by state/local sources; and
- Be conducted by EPA in cooperation with the Secretary of the Army and the states.

In addition, H.R. 1070 would authorize:

- ~~\$2 million for each of fiscal years 2003-2007~~ **\$3 million for each of fiscal years 2004-2008** for a research and development program at EPA to examine technologies and approaches for the remediation of contaminated sediment; and
- **\$1 million for each of fiscal years 2004-2008 for a public information program about the remediation.**

H.R. 1070 would now specifically authorize the Lake Champlain Basin Program, which has been operating as the Lake Champlain management conference, first authorized by the Lake Champlain Special Designation Act of 1990 (33 U.S.C. 1270 note; P.L. 101-596). The Program would be aimed at implementing the elements of “Opportunities for Action: An Evolving Plan for the Future of the Lake Champlain Basin,” an environmental action and management plan approved by the Lake Champlain Steering Committee on January 30, 2002.

The Lake Champlain Basin Program would be authorized at \$11 million for each of fiscal years 2004 through 2008.

H.R. 1070 would also allow certain limited flexibility of use of federal water pollution control funds, repeal the authorization for the National Health Museum Commission, authorize \$1 million to establish a Center for Brownfields Excellence (for the transfer of technology and expertise in the redevelopment of abandoned or underutilized property that may have environmental contamination), and make certain project adjustments to the Transportation Equity Act for the 21st Century (112 Stat. 272).

Cost to Taxpayers: H.R. 1070, as it passed the Senate, would authorize \$1 million in FY2003, \$260 million over the FY2003-FY2007 period, and \$325 million over the FY2003-FY2008 period.

Does the Bill Create New Federal Programs or Rules?: The bill would create three new contaminated sediment programs at the EPA.

Constitutional Authority: The Transportation and Infrastructure Committee, in House Report 107-587, cites Article I, Section 8, but fails to cite a specific clause.

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H.R. 2546—Real Interstate Driver Equity Act (*Concur in Senate Amendment*) (Blunt)

Order of Business: The House passed H.R. 2546 by voice vote on November 13, 2001. The Senate then passed the bill with amendments by unanimous consent on October 17, 2002. Now the amended bill is scheduled to return to the House floor on Tuesday, November 12th, under a motion to suspend the rules and pass the bill.

Summary (Senate changes in red bold): H.R. 2546 would prevent any state, any subdivision thereof, or interstate agency from enacting or enforcing any law, rule, regulation, or standard that requires a license or fee to provide “interstate pre-arranged ground transportation” (e.g. limousine service across state lines). This new prohibition would not apply to taxicab service or to service using buses that could seat more than 15 people. **The Senate amendments would clarify that this law would apply to motor carriers providing interstate “transportation” (as opposed to interstate “travel” in the House bill). The Senate amendments would also clarify that interstate transportation including “intermediate stops” (defined in the bill) would be covered by this legislation.**

This legislation could not be construed as:

- “prohibiting or restricting an airport, train, or bus terminal operator from contracting to provide preferential access or facilities to one or more providers of pre-arranged ground transportation service; or as
- “restricting the right of any State or political subdivision of a State to require **in a nondiscriminatory manner** that any individual operating a vehicle providing prearranged ground transportation service originating in the State or political subdivision have submitted to **pre-licensing drug testing or** a criminal background investigation of the records of the State in which the operator is domiciled, ~~by the motor carrier providing such service or~~ by the State or political subdivision by which the operator is licensed to provide such service **or by the motor carrier providing such service**, as a condition of providing such service.”

Cost to Taxpayers: CBO confirmed that this legislation would not affect federal spending or receipts.

Does the Bill Create New Federal Programs or Rules?: The bill would prohibit states from requiring a license or fee to provide “interstate pre-arranged ground transportation.”

Constitutional Authority: The House Transportation and Infrastructure Committee, in House Report 107-282, cites constitutional authority in Article I, Section 8, but fails to cite a specific clause.

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H.R. 4878—Improper Payments Information Act (*Concur in Senate Amendment*) (Horn)

Order of Business: The House passed H.R. 4878 by voice vote on July 9, 2002. The Senate then passed the bill with an amendment by unanimous consent on October 17, 2002. The bill now returns to the House floor on Tuesday, November 12th, under a motion to suspend the rules and pass the bill.

Summary (Senate changes in red bold): H.R. 4878 would require federal agencies, under guidance by the Office of Management and Budget, to annually identify programs and activities that may be susceptible to “significant improper payments.” An improper payment as defined by the bill includes overpayments, underpayments, duplicate payments, payments to ineligible recipients, payments for ineligible services, and payments for services not received. For each program and activity, the head of the agency must estimate the annual amount of improper payments and **annually report the improper payments to Congress the amount in its annual budget and performance report under GPRA (The Government Performance and Results Act).**

With respect to any program or activity for which improper payments exceed **\$10 million one percent of the program budget or \$1 million (whichever is less)**, the agency head must:

- **report to Congress on the causes of the improper payments, what actions have been taken to correct those causes, and the success of such actions;**
- state whether the agency has the information systems necessary to reduce improper payments, and if not, what the agency has requested in its budget to acquire such systems; and
- **describe the steps taken to ensure the accountability of agency managers for reducing improper payments.**
- ~~describe annual performance targets and accountability measures in budget and GPRA reports.~~

NOTE: Contrary to other reports, the bill does NOT include provisions requiring that agencies with a budget in excess of \$25 million complete an audit. Such legislation, H.R. 4685 (sponsored by Rep. Pat Toomey), was signed into law by the President on November 7, 2002 (but has not been assigned a Public Law number yet).

Cost to Taxpayers: CBO estimates that enacting H.R. 4878 would not significantly affect the federal budget. The bill would expand on existing measures designed to address waste, fraud, and abuse in the Government Performance and Results Act, the President's Management Agenda for fiscal year 2002, and OMB Circular A-11.

For most agencies, any impact of H.R. 4878 on spending would be subject to the availability of appropriated funds; however, the legislation could also affect direct spending by agencies not funded through annual appropriations, such as the Tennessee Valley Authority and the Bonneville Power Administration. CBO estimates, however, that any change in spending by these agencies would not be significant.

Does the Bill Create New Federal Programs or Rules?: The bill would set new requirements for federal agencies to reduce improper payments.

Constitutional Authority: A committee report citing constitutional authority is unavailable.

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